

living, he shall live for things worth living for, leave the world better for having lived in it, and dying, live again in the lives of those who have been inspired by his works and his example. Judge Ellis showed his faith in his works, and he rendered a service to his countrymen which will be appreciated more, and more, as the years go on.

The fine spirit which he showed toward those with whom he labored, was the guiding compass of his career. There was no trace of selfishness in his life, and he wanted no favors bestowed upon him which could not be shared by others. Unlike some meteoric characters that have gleamed and flashed across the pages of history, his was a quiet and unostentatious life.

It was given him to write the fundamental laws of a Republic, which eventually added to our common country one third of its present territorial boundaries. In this, the United States as well as Texas, owe him a debt of gratitude which never can be paid. In contemplating the work he did, during the whole of the Republic of Texas, I am reminded that the service of a statesman should be no less renowned than that of those who fight and die on the field of battle. Who can say, but for his genius in furnishing the inspiration for Houston's army, the victory at San Jacinto would have been possible. It is certain that the labors at Washington on the Brazos were the inspirational prelude to final victory, and the name and fame of those who toiled there should be honored and revered by Texans, from generation to generation.

More than a hundred years have passed since with steady hand he penned the laws which sustain our basic institutions. Standing on ground which bears his name, let us all hail the name of Richard Ellis—law-giver, adventurer, statesman, and dreamer! We, here, who have sprung from the soil of his labors, recognize the horizon which bounded his vision, and the infinite scope of his genius. The voice of gratitude and praise for all the blessings which have been showered upon us by his adventure is limited to no section of the commonwealth which it was his to found, but is uttered by every

tongue and in every hamlet of the State. Neither marble nor bronze can fitly form his statue. One third of the American Union can claim him as her own, and unnumbered millions, present and to come, who enjoy their liberties and their happiness in the fruits of his faith, will reverently guard and preserve, from century to century his name and his fame.

This great region which claims him by adoption has a peculiar interest in the story of his life, and in behalf of the State I take pardonable pride in presenting this monument to the care of the people of Ellis County. Here, let it stand, as a testimonial to his valor. So long as it can be kept in place, let it symbolize the spirit of him who gave to Texas her first charter of constitutional government. Let your children and your children's children take notice of its purpose; and when at last the insatiable elements of time and chance shall have dissolved the materials which compose its base, the influence for good which Richard Ellis planted in this world will increase in ever widening circles—he will still live—remembered because of his deathless deeds.

SECOND DAY.

(Wednesday, January 13, 1937.)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called and the following Senators were present:

Aikin.	Newton.
Beck.	Oneal.
Brownlee.	Pace.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Roberts.
Head.	Shivers.
Hill.	Sulak.
Holbrook.	Van Zandt.
Isbell.	Weinert.
Lemens.	Westerfeld.
Moore.	Winfield.
Neal.	Woodruff.
Nelson.	

The following Senators were absent and excused:

Small.	Spears.
Burns.	Stone.

A quorum was announced present. Father Theodore Drees, Chaplain, offered the invocation.

On motion of Senator Neal, the reading of the Journal of the proceedings of yesterday was omitted.

Leaves of Absence Granted.

Senators Small and Spears were granted leaves of absence for today, on account of important business, on motion of Senator Collie.

Senator Burns was granted leave of absence for today, on account of important business, on motion of Senator Beck.

Senator Stone was granted leave of absence for today, on account of illness, on motion of Senator Collie.

Senate Bills on First Reading.

The following Senate bills were introduced, read severally first time, and referred by the President to appropriate committees, as follows:

By Senator Nelson:

S. B. No. 22, A bill to be entitled "An Act repealing Chapter 10 of the laws of the Forty-third Legislature, First Called Session, being H. B. No. 12, pages 32-41 of the General and Special Laws of the Forty-third Legislature, First Called Session, and reenacting Articles 645, 647, 648, 649, 650 and 651 of the Penal Code of the State of Texas, to prohibit the buying and selling of pools or receiving or making bets on horse racing and to provide a penalty for its violation, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Senator Van Zandt:

S. B. No. 23, A bill to be entitled "An Act defining public utilities, and providing for their regulation; creating the Public Utilities Commission of this State, providing for appointment of commissioners, and fixing their qualifications and compensation, and prescribing their duties and powers, and the manner in which the jurisdiction herein conferred shall be exercised; providing penalties for the violation of this Act, and for the repeal of all laws and parts of laws in conflict herewith, and declaring an emergency."

Referred to Committee on State Affairs.

By Senator Spears:

S. B. No. 24, A bill to be entitled "An Act to protect trade-mark owners, distributors and the general public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguished trade-mark, brand or name, and to facilitate fair trade, defining certain terms, and declaring an emergency."

Referred to Committee on Commerce and Manufactures.

By Senator Spears:

S. B. No. 25, A bill to be entitled "An Act to regulate the practice of pharmacy; repealing Chapter 8, Title 71, Revised Civil Statutes of 1925, Chapter 107, Acts of Regular Session of the 41st Legislature, page 242, H. B. No. 356, Chapter 98, Acts of the Regular Session of the 44th Legislature; creating a State Board of Pharmacy; providing for the appointment of its members, their term and tenure of office and their compensation; defining the duties and powers of the board; providing for all moneys now or hereafter collected by the board to be placed in a special fund in the State Treasury to be known as 'The Board of Pharmacy Fund,' and providing for expenditures and disbursements from such fund; providing for meetings of the board; providing for the licensing of pharmacists; requiring renewal registration annually; providing a fee therefor, etc.; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Referred to Committee on Public Health.

By Senator Spears:

S. B. No. 26, A bill to be entitled "An Act to amend Article 2968, Revised Civil Statutes of 1925, as amended by Chapter 51, Acts of the 41st Legislature, First Called Session, providing for the issuance of Poll Tax Exemption Certificates, prescribing the form, the time of issuing, and the method of transferring same; providing for the numbering of certificates; repealing Chapter 292, Acts of the 44th Legislature, Article 2969, Revised Civil Statutes of 1925, and all laws and parts of laws in conflict herewith, and declaring an emergency."

Referred to Committee on Privileges and Elections.

By Senator Woodruff:

S. B. No. 27, A bill to be entitled "An Act appropriating \$96,000.00 for the support and maintenance of Texas State College for Women at Denton, Texas, and declaring an emergency."

Referred to Committee on Finance.

By Senator Westerfeld:

S. B. No. 28, A bill to be entitled "An Act more effectually regulating the duty of parents (commensurate with their ability) to support, maintain and educate their children under sixteen years of age; authorizing the institution of an independent action by a parent or next friend, in the county court of the county of the residence of such child or children, or where such child or children is, or are, principally kept, calling attention to the neglect of such child or children by the parent against whom complaint is made; providing for the service of notice upon such parent of a hearing on the complaint, for the taking of testimony, and authorizing the court by an order, entered to that effect, requiring any such parent (commensurate with his or her ability) to make periodical payments of money into the registry of court, for the benefit of said child or children; authorizing the county court, on proper showing of materially changed circumstances and conditions, to modify, suspend or set aside such order; providing for the enforcement of any such order, by suitable legal process, or by contempt proceedings; authorizing either party to the controversy to appeal without bond from the order of the county court, to the district court of said county, and regulating such appeal; providing for trial de novo in the district court, either in term time or vacation, and that its judgment shall be final and for the certification thereof to the county court for enforcement; providing that this Act shall not be construed as repealing, by implication, any law or laws germane to the subject-matter hereof, but shall be considered as cumulative of all other laws on the subject, and declaring an emergency."

Referred to Committee on Educational Affairs.

By Senator Westerfeld:

S. B. No. 29, A bill to be entitled "An Act to correct malpractice in

the building construction industry by safeguarding the public against the irresponsible practice of the profession of architecture; defining and regulating the practice of architecture; creating a Board of Architectural Examiners; providing for appointment of the board; fixing the terms of office; providing for appointment of their successors and for filling vacancies; fixing the qualifications of the members of said board; requiring each member to take the oath of office and file same with the Secretary of State; providing for the election of various officers of said board; requiring the bonding of the secretary-treasurer; providing for the adoption of necessary rules, regulations, and by-laws of said board to govern its proceedings and activities; prescribing the duties of the various members of said board; providing for fees collected by said board to be deposited in a special fund in the State Treasury; providing for an appropriation from said fund to pay salaries, compensations, and other expenses of said board; providing certain excess funds to be diverted to the General Revenue Fund of the State; etc., and declaring an emergency."

Referred to Committee on State Affairs.

By Senator Westerfeld:

S. B. No. 30, A bill to be entitled "An Act amending Articles 2278 and 2282 of the 1925 Revised Civil Statutes of Texas, as heretofore amended, providing that parties in cases to be appealed may prepare and file agreed transcript of the pleading; and declaring an emergency."

Referred to Committee on Civil Jurisprudence.

By Senator Westerfeld:

S. B. No. 31, A bill to be entitled "An Act creating a lien upon the recovery to guarantee to an attorney-at-law the payment of his fees in cases where the attorney is employed other than on a cash basis."

Referred to Committee on Civil Jurisprudence.

By Senator Westerfeld:

S. B. No. 32, A bill to be entitled "An Act to prohibit the governing body of any incorporated city or town from advertising or soliciting bids on any so-called patented pav-

ing; requiring such cities and towns to adopt the same standard and specifications for paving used by the State Highway Department of the State of Texas, in conjunction with the Federal Government; repealing all laws in conflict herewith and declaring an emergency."

Referred to Committee on Towns and City Corporations.

By Senator Westerfeld:

S. B. No. 33, A bill to be entitled "An Act to prohibit the establishment, or operation and maintenance, of any morgue, or undertaking parlors, or funeral home of any other description, whatsoever, at any point closer than one thousand (1,000) feet to the nearest point in the property line, or land line, of the plot of ground on which any public school building, or any other equipment or property used for school purposes in connection with the said public school, is situated anywhere in the State of Texas."

Referred to Committee on Public Health.

By Senator Westerfeld:

S. B. No. 34, A bill to be entitled "An Act to prohibit the manufacture, sale, barter, giving away, or in any other manner dispensing beer, wine, liquor or any other drink or food containing alcohol in any amount, whatsoever, at any point closer than one thousand (1,000) feet to the nearest point in the property line, or land line, of the plot of ground on which any public school building, or any other property or equipment used for public school purposes in connection with the said public school, is situated anywhere in the State of Texas."

Referred to Committee on State Affairs.

By Senator Oneal:

S. B. No. 35, A bill to be entitled "An Act to aid the Pease River Flood Control District, a State agency, in carrying out the purposes for which it was created by Chapter 420, General and Special Laws, First Called Session, Forty-fourth Legislature (S. B. No. 62 of said Session), including the acquiring of the lands, leases, easements and acquittances, rights-of-ways, structures, buildings and equipment, and including the operation of structures, dams, reser-

voirs and canals, suitable, insofar as practicable, for the control of the flood waters of the Pease River watershed, declared to be a public calamity, granting and donating, with certain limitations, to said District for a period of two years all of the State ad valorem taxes in the following counties, which otherwise would go into the General Revenue Fund of the State of Texas, namely: Cottle, Foard, Hardeman and Wilbarger; said grant being contingent upon the receiving by said District of a grant or allotment from the United States of America on or before January 1, 1939, of a sum sufficient to effect the purpose of this Act, and declaring certain things incidental to said purposes; etc.; and declaring an emergency."

Referred to Committee on Mining and Irrigation.

By Senator Woodruff:

S. B. No. 36, A bill to be entitled "An Act defining certain words, terms and phrases as used in the Act; promoting economic security and stability among employees of public schools; fixing regulations under which public school employees may be dismissed or demoted; providing for employee compliance in improving public school standards; and declaring an emergency."

Referred to Committee on Educational Affairs.

Senate Joint Resolution on First Reading.

The following Senate joint resolution was introduced, read first time, and referred by the President to the Committee on Constitutional Amendments:

By Senator Oneal:

S. J. R. No. 4, Proposing an amendment to Article 5 of the Constitution of the State of Texas, by adding a new section to be known as Section 3-a, providing how interlocutory injunctions, sustaining or restraining enforcement, operation or execution of any statute of this State or of the United States, based upon the ground of the unconstitutionality of such statute, may be issued; and providing for appeal from order issuing or refusing to issue such interlocutory injunction; and providing that temporary restraining orders in such

cases may be granted under the rules and regulations prescribed by the Supreme Court; and providing for appeal to the Supreme Court of the order granting or denying such interlocutory injunction; and providing for an election upon such proposed Constitutional Amendment, and making an appropriation therefor.

Senate Concurrent Resolution No. 3.

Senator Oneal offered the following resolution:

Be It Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the two Houses meet in joint session at eleven o'clock a. m., Wednesday, January 13, 1937, for the purpose of hearing the message of His Excellency, the Honorable James V. Allred, Governor of the State of Texas; and that the Governor be invited to deliver his message in person to the Legislature in joint session.

The resolution was read.

On motion of Senator Oneal and by unanimous consent, the rule requiring resolutions to be referred to a committee was suspended, and the regular order of business was suspended, to permit consideration of the resolution at this time.

The resolution was then adopted.

Senate Resolution No. 5.

Senator Oneal offered the following resolution:

Whereas, The Third General Assembly of the Council of State Governments will meet in Washington, D. C., January 21st to the 24th, 1937; and,

Whereas, This Assembly was organized in 1933 with President Roosevelt's assistance, the delegates thereto from some thirty-two states, representing the governor of the state and one representative from the senate and one from the house of representatives; and,

Whereas, the Second General Assembly was held in 1935 at which official delegates from forty-one of the states attended; and,

Whereas, This Assembly deals with matters involving the attitude of the Federal Government on taxation and other kindred matters, and with the matter of co-operation among states and groups of states on various ques-

tions of interest to the several states; and,

Whereas, There is a great tendency for the National Government to take over the field of taxation from the various state governments and to take over other fields of government because of the failure of the states to co-operate among themselves, there is urgent need for better co-operation among the states if the powers and duties are to be retained by them; and the work of this General Assembly is looking towards this retention of such rights and duties; and it is important that the Senate of Texas be represented in this General Assembly; now, therefore, be it

Resolved by the Senate of Texas that the Lieutenant Governor appoint a delegate to such Assembly to represent the Senate of Texas at said meeting and that the necessary expenses incurred by said Senator be paid from the contingent fund.

ONEAL,
NELSON.

The resolution was read.

On motion of Senator Oneal and by unanimous consent, the rule requiring resolutions to be referred to a committee was suspended to permit consideration of the resolution at this time.

The resolution was then adopted.

Senate Notified.

A committee of five members of the House appeared at the bar of the Senate, and after being announced, reported the House organized and ready for the transaction of business.

Message From the House.

The following message was presented by the Chief Clerk of the House:

Hall of the House of Representatives,
Austin, Texas, Jan. 13, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

S. C. R. No. 3, Providing for a joint session of the House of Representatives and the Senate at 11 o'clock a. m., Wednesday, January 13, 1937, for the purpose of hearing the message of His Excellency, the Honorable James V. Allred.

H. C. R. No. 2, Setting the per diem for members of the 45th Legislature.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

At Ease.

On motion of Senator Rawlings, the Senate, at 10:30 o'clock a. m., stood at ease to 10:55 o'clock a. m. today.

The Senate was called to order by the President at 10:55 o'clock a. m.

Joint Session.

The President announced that in accordance with Senate Concurrent Resolution No. 3, adopted by the Senate and House today, the time had arrived for the joint session of the two Houses to hear the address of Governor James V. Allred.

The Senate, accordingly, at 11:00 o'clock a. m., repaired to the Hall of the House of Representatives.

The Senators were admitted to the House and escorted to seats prepared for them along the aisle.

The President of the Senate occupied a seat on the Speaker's stand.

The President called the Senate to order and directed the Secretary of the Senate to call the roll.

The roll of the Senate was called, and the following Senators were present:

Aikin.	Newton.
Beck.	Oneal.
Brownlee.	Pace.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Roberts.
Head.	Shivers.
Hill.	Sulak.
Holbrook.	Weinert.
Isbell.	Winfield.
Lemens.	Woodruff.
Mocr.	Van Zandt.
Neal.	Westerfeld.
Nelson.	

The following Senators were absent and excused:

Burns.	Spears.
Small.	Stone.

A quorum of the Senate was announced present.

Hon. Robert W. Calvert, Speaker of the House of Representatives, directed the Clerk to call the roll of the House.

The roll of the House was called and a quorum was announced present.

The Speaker announced that the two Houses were in joint session for the purpose of hearing an address by Hon. James V. Allred, Governor of Texas.

Hon. James V. Allred was announced at the bar of the House, and being admitted, was escorted to the Speaker's stand by Senators Oneal, Beck and Head and by a committee of five members of the House.

The Speaker presented Hon. J. Bryan Bradbury, a member of the House, who in turn presented Governor James V. Allred to the joint session.

Governor Allred then delivered to the Legislature the following address and message:

Gentlemen of the Senate and House of Representatives of the Forty-fifth Legislature:

The first week of your service is the closing week of my first term as Governor of Texas. On January 19th of this year it will be my high honor to continue that service with you for another two years. There need not, therefore, be any break or unnecessary marking of time for the formalities of inauguration.

I warmly congratulate each of you upon your election as the people's representative, and the opportunity it affords for service. For the legislative and executive departments of government we begin today the second century of Texas progress. It should be our prayer and constant goal that what we do will lay the foundation for a greater Texas.

Thanks to the Almighty, to the blessings He has bestowed upon us, to the abundant resources given us, to the spirit and traditions of a great Texas people and to our co-operation with the National Administration, we enter upon the discharge of our duties with brighter hopes than two years ago.

The Constitution requires the Governor, at the beginning and close of his term of office, to give to the Legislature (and thereby the people) "information by message of the condition of the state"; and to recommend such measures as he may deem

expedient. Necessarily, as a practical matter, this can hardly be accomplished in a single message. Many of the measures I expect to suggest are of such importance as to require within themselves separate and detailed discussion.

According to the Constitution, all free governments are instituted for the benefit of the people. The principal objective of government is to secure, as economically as possible, the greatest measure of benefits to the greatest number of people; and with no more restraint upon their liberties than is absolutely necessary to obtain such benefits. It was for this purpose that you and I were chosen. We have each solemnly pledged ourselves to devote our every thought and energy to this end.

I am happy to report to you that, in my judgment, the "condition of the State," upon the whole, is good. Under the leadership of our great progressive President, business has improved, income has increased, unemployment has been reduced, building has gone forward, highways have been built, construction projects are being carried on; and Texas is a much better place in which to live than it was two years ago.

In that short space of time most of the planks in the Democratic platform have been carried out. Planned recovery and rehabilitation has encouraged industrial development, secured for each community a just allocation of Federal appropriations for unemployment relief and general aid in all worthy enterprises. Direct relief, taken out of politics, has helped the needy and distressed. The Public Health Service has gone forward; we have ministered to crippled children and, so far as possible, the lofty, humanitarian aims of government have been secured.

An old age assistance amendment to the Constitution was submitted, adopted by the people and enacted into law. A state unemployment compensation commission is now functioning in cooperation with the Federal Government. Our natural resources have been conserved by State Administration; oil and natural resources industries, upon which the prosperity of our State so largely depends, placed upon a stabilized basis. Vicious, violent lawlessness has been suppressed; major crime has been

intelligently and vigorously dealt with through a rejuvenated and modernized State police force taken out of politics. A State securities law has driven from our boundaries the unscrupulous swindler and promoter. Unrestrained power of clemency has been removed from the Governor's hands and placed in a non-political board. The State Prison System has been operated economically and efficiently; a real program of rehabilitation instituted for convicts.

A great, a fitting Centennial Exposition of our independence and progress was presented to the world. It brought to us visitors from everywhere. As a result Texas today is better and more favorably known than ever before. Already and over again the Centennial has repaid our investment in dollars and cents; and we may well count upon its continued benefits for years to come.

Necessarily, this is but passing mention of some, among many, outstanding accomplishments. It is enough to say that all agree we may now continue our labors confident in the knowledge that Texas has not only tremendously improved in the past two years, but must inevitably continue to grow and prosper.

Having briefly reported upon "the condition of the State," we must now proceed to deliberate upon how, as chosen representatives of the people, we can best exercise the powers of government for their benefit. We are fresh from the people, with definite mandates as to their desires. These are incorporated in the platform of the Democratic Party upon which most of us were elected in November. Without at this time specifically enumerating every plank, I respectfully recommend to you each of them. In this message I shall give you the benefit of my views upon such of them as are specifically referred to. Hereafter, from time to time, I may amplify these views and discuss those not covered in this message.

In my humble judgment, most of us stand obligated by the platform of our party to the following:

1.

Social Security Program.

The Democratic platform favors "the progressive development of a well-rounded social security program

that will adequately care for the aged needy, the orphaned, the crippled and the blind." It asserts "that this program shall not be undertaken except upon a sound plan of state finances and in close cooperation with the Federal Government under the National Social Security Act." Further: "We favor limiting benefits under the Texas old age assistance act to those in need."

This latter pledge, limiting old age assistance to those in need, is perhaps the most important of all. An erroneous impression has been created in the public mind throughout the state that the people of Texas voted for old age "pensions"; and, indeed, the statement has been repeatedly made that the people intended "pensions" for every person over 65 years of age, irrespective of need. Such is not the case. The Constitutional amendment adopted by the people provided for "assistance," not "pensions." It provided for acceptance by the State of financial aid from the United States Government, clearly contemplating coordination of our State law with that of the National Government. The Federal law does not authorize "pensions" for everybody over 65; and only authorizes "assistance" to the aged needy.

This was a clear cut issue in the campaign for Governor. The people spoke at the ballot box. The last called session of the Forty-fourth Legislature recognized this and amended the prior law by enactment of the present statute authorizing State assistance to the needy only. This law has been in effect less than three months. Under capable direction the problem is being dealt with intelligently and as rapidly as possible. Of course, administration of the law may not be without its defects, but we have entered upon a program in which there is little experience to guide us. We must make that experience and benefit from it.

In view of statements carried in the public press as to efforts which may be made to liberalize the old age assistance law, I feel you are entitled to my views. I tell you, therefore, candidly that I will not approve any bill liberalizing or extending benefits to those who are not in need until the present law has had a just and fair trial. Each of you are, of

course, entitled to your own opinion, but I make this statement in the hope that our time may be devoted to other more pressing problems.

I recommend the passage of a law to extend the social security program to the blind, the crippled, the dependent children and others entitled to these benefits under the National Social Security law; provided, however, that, at the same time, this program must be financed by sufficient revenues.

In this connection we are again without a great deal of experience or reliable data to guide us. The State Tax Commissioner has conferred with representatives of the Federal Government and secured from them all available statistics and information. According to their best estimate, if we are to put this program into effect in Texas it will require an approximate annual State expenditure of \$4,324,000.00.

Later in this message I shall make tax recommendations to you; but, with all respect, I want it definitely understood I will not approve a law making appropriations for these benefits unless the Legislature contemporaneously provides revenues sufficient to pay such appropriations.

2.

Utility Regulation.

The great majority of our people are definitely convinced that utility rates can and should be reduced. There are two methods of accomplishing this:

A. Adequate and effective regulation of private utilities.

B. Ample authority for municipal ownership and operation of these utilities.

Privately owned utilities will not openly even contend that they should not be regulated. All efforts to do so in the past, however, have failed dismally in one House or the other because of difference of opinion as to the method of regulation.

One of the stock arguments against State regulation is that the power should be left in the hands of the various municipalities. This is ridiculous! Local governments are as powerless adequately to regulate utility rates as the State is to deal with interstate commerce. Cities and towns have not the means. They

cannot hire the counsel or secure the services of experts for valuation purposes. It is idle to talk of a city regulating the rates of an electric company, for instance, operating in a hundred other towns.

The farce of past efforts at municipal regulation is demonstrated by the fact that under the present law only cities of two thousand, or more, according to the last Federal census, can regulate the rates of electric utilities; and the law provides that they shall earn a return of at least 10 per cent. This has left smaller towns without even the semblance of regulatory power, and legislative efforts to extend this authority to towns of less than two thousand and provide that utilities shall not earn more than 10 per cent have been jockeyed about and frustrated in every instance of attempted legislative action.

The time has come when we must pass an effective regulatory utility law, one giving adequate power and means to a State Commission.

The two main points upon which opinion has been divided in the past have been the following:

First: The utilities inevitably seek to have the Legislature provide that before a municipality can acquire or operate its own plant it must first buy, or offer to buy, an existing private utility.

Second: They seek to have the law provide that even when the State Commission promulgates a rate upon evidence before it, then the utility will have the right of appeal to the courts where the trial shall be de novo. This results in hopelessly dragging out the controversy for years; and few communities have ever received any benefits from such action.

The platform of our Party clearly declares for the principal of making it "practicable for any city or town to acquire and operate its own public utilities." This threat of municipal ownership is the best weapon a community can wield to secure lower utility rates. I urge this Legislature to make this weapon of potential municipal ownership more effective rather than to practically bind the people's hands by requiring a community to first buy or offer to buy an existing private utility. Frankly, I cannot approve a utility

regulatory law with such a provision in it.

Again, I recommend that any utility regulatory bill passed should clearly provide that when the State Commission promulgates an order establishing a rate, if an appeal is taken to the courts, then the trial should not be de novo but upon the record made before the Commission; and providing clearly that the burden shall be upon the utility, if it be the complaining party to establish not only that the order or rate is unreasonable but that it was without any warrant in the evidence heard before the Commission.

This principle was clearly declared by the Court of Civil Appeals for the Third Supreme Judicial District, and afterward approved by the Supreme Court in its refusal of a writ of error, in the Lone Star Gas Company case—an appeal from an order of the Railroad Commission lowering the gate rate in more than one hundred Texas towns and cities. In my humble judgment this order of the Commission and the Court's opinion is one of the greatest victories the people ever won. It should be carried on into the written law of the land and applied to all utilities as well as to the gas companies.

In urging you to pass an adequate utility regulation law, I want to remind you that if we can thereby secure a reasonable reduction in rates, it will possibly result in a greater saving to the people than could come from any other form of legislation.

3.

Safety Program.

Thirty-eight thousand people were killed in the United States last year in traffic accidents! Almost 2,000 of them lost their lives in Texas! More Americans are brutally killed in traffic accidents in eighteen months than were destroyed during the great World War!

Isn't this a challenge to us? We have simply got to do something to cut down this annual loss of life, to say nothing of the maimed and crippled as well as property damage running into millions of dollars.

During the Regular Session of the 44th Legislature we passed a drivers license law. It is weak and ineffective. It was loaded down with

amendments; and, without criticism of any individual, I think this was due to a belief on the part of some members of the Legislature that their constituents would be resentful of rigid state regulation. I think we misjudged the sentiment of the people. I think they want something effective done about this terrible thing. I think they want the highways made safer for all of us. I know they want to do away with the anguish and tragedy of little children slaughtered and maimed on their way to school.

I recommend the passage of a rigid uniform drivers license law; and of measures making more effective regulation of trucks and buses whether common carrier or privately owned. Scarcely any of us but has suffered one of these disasters within the circle of his acquaintance; and all too often are having the lesson brought home by the needless loss of a loved one.

I recognize that the success of these measures will depend to a tremendous extent upon public education and the support of public opinion. I am taking immediate steps to assist our Public Safety Department and safety councils throughout the state in better carrying on this program of education and to stimulate public opinion. In the meantime, however, I cannot too seriously and earnestly urge the passage of these laws. The time has come when personal inconvenience must, to a considerable extent, give way to public welfare and safety.

The State Highway Patrol is a magnificent organization, but woefully under manned. Today we have less than one hundred and fifty of these fine young men to patrol thousands of miles of highways. The force should be doubled at least. They should be equipped for the most part with light speedy cars instead of motorcycles, as at present. This can and should be paid for out of the State Highway fund since this organization is primarily charged with patrolling the highways and enforcement of safety measures.

No single accomplishment could be greater than intelligent, effective legislation to curb and diminish the astounding, appalling and for the most part, avoidable daily tragedies resulting from our indifference.

4.

Constitutional Amendments
Legislation.

In the special election held in August, 1935, and at the general election of 1936, the people voted a number of constitutional amendments. Some of these have not yet been acted upon by the legislature. I recommend for your careful consideration enabling legislation on such amendments, which will be discussed in the following order:

A.

Pardons and Paroles.

In the general election, the people adopted an amendment to remove the unrestrained power of clemency from the hands of the Governor; and placing it in a Board of Pardons and Paroles, composed of three members, one appointed by the Governor, one by the Chief Justice of the Supreme Court, and one by the presiding Justice of the Court of Criminal Appeals. The Governor is authorized under this amendment, on the written, signed recommendation of a majority of the Board of Pardons and Paroles to grant reprieves, commutations of punishment and pardons; and under such rules as the Legislature may prescribe, upon like recommendation of the Board, to remit fines and forfeitures. The amendment provides that the Legislature shall have the power to regulate procedure before the Board and shall have authority to enact parole laws.

This amendment is to become effective February 1, and for that reason it is submitted to you as emergency legislation. A bill proposing to carry this into effect will be promptly offered for your consideration. In connection with it, however, I particularly recommend the following:

The salary of the Board members as set out in the general appropriation is \$2,250.00 per year. This Board has added dignity and new responsibilities under the Constitutional amendment. Its members should be paid a fair salary. I would suggest at least three hundred dollars per month.

As most of you are aware, I have worked out a system of voluntary

parole boards throughout the state, to which men granted clemency are required to report from time to time. The various civic organizations have cooperated beautifully and I have been helped immeasurably with the volunteer services of many fine public-spirited men and women throughout the State. They have given freely of their time. They act as advisors to these men coming out of the penitentiary and endeavor to help them secure employment.

I trust it will not appear immodest for me to state that I am prouder of the work done by these boards under this parole system than of almost any accomplishment during my first administration. It has paid us big dividends in dollars and cents, in property saved which might have been stolen by discouraged men.

But the greatest return upon the investment has been in retrieved manhood. The results have been and are astounding. The percentage of parole violators has been cut to an almost negligible figure. I have always felt that it would be a good investment for the state to interest themselves in a man when he comes out of the penitentiary; to keep posted as to his whereabouts and what he is going to do; to provide him with employment if possible. Our experimental parole system has been in operation eighteen months. Results speak for themselves. The system has attracted the interest of other states and the Federal Government caused a special study to be made, the results of which were very complimentary.

The members of these parole boards serve without pay. In most of the districts, however, the matter of keeping the records of these men has become a burden. Public spirited citizens and civic organizations in Houston, for instance, have secured voluntary contributions to keep a paid secretary.

It is essential in my opinion that the burden of keeping detailed records of these men—the reports they make and which are made on them—should be taken off the shoulders of the voluntary boards and that a reasonable number of parole agents, well scattered throughout the State by districts, should be authorized; that they be appointed by the Board of Pardon and Parole Advisors. The

Board should have an adequate appropriation of not less than \$250.00 per month for an energetic wholehearted, capable secretary, not only to assist the Board in matters pending before it, but to direct the parole work throughout the State. Except for this volunteer parole board, Texas has lagged far behind her sister states. All of the more progressive ones have a program of probation and parole already worked out.

It is not my idea to abolish the volunteer parole boards. On the contrary, I think they should be given legal standing; and that the members should be honored with a commission from the State of Texas. Through them real human interest is given to what otherwise might become mechanical activity on the part of paid parole agents. Through them and their contacts with business and industry, jobs are secured for parolees. In my judgment, with legal standing as proposed by this bill, the continuation of the work by these volunteer boards will be a most valuable factor in contributing to a solution of this great problem with which society is confronted.

When the people adopted the amendment taking the power out of the Governor's hands and placing it in the board, they intended, in my judgment, to take it out of politics. They were tired of conditions with which we are all too familiar in the past. We ought to do everything we can to give effect to the will of the people. In regulating procedure before the Board, the Legislature would do well to prohibit the making of any contract calling for the payment of a contingent fee in the event clemency is secured or granted; and authorizing the Board to require any person appearing before the Board to file an affidavit setting out clearly the consideration for which he is appearing.

In this connection I respectfully urge this Legislature to incorporate an unusually patriotic provision in the law—one prohibiting members of the Legislature from practicing before the Board. The Legislature makes appropriations for this Board; and it is but human that any appearance, whether with or without pay, by members of the Legislature in behalf of men condemned to die

or sentenced to the penitentiary will at times prove embarrassing.

In making this recommendation I want you to know that very few members of the Legislature have appeared before me asking for clemency; and most of the cases where they did appear it has been rather at the request of their constituents, without pay, than for remuneration; but, in any event, it might tend to be embarrassing to the members of the board; and I rather think the members of the Legislature can save themselves a great amount of trouble and worry if they would incorporate this simple provision in the law.

B.

Probation Amendment.

This amendment was likewise adopted in 1935, to authorize courts of original jurisdiction to suspend imposition or execution of sentence, and to place a defendant on probation and to reimpose sentence.

The purpose of this amendment is self-evident. No doubt bills will be introduced upon the subject. It occurs to me that the men placed upon probation by the trial judge could well be placed under the supervision of the same parole boards or officers authorized for paroled men released from the penitentiary. This will avoid a duplication of effort and expense.

C.

Legislative Re-Districting.

Article 3, Section 26, of the Texas Constitution, provides that the members of the House of Representatives shall be apportioned among the several counties according to the number of population in each, as nearly as may be determined on a ratio obtained by dividing the population of the State as ascertained by the most recent United States census.

This section of the Constitution was amended in the last general election by limiting the total number of representatives for any one county to seven, excepting counties having more than 700,000 population.

There has been no legislative apportionment since the most recent United States census. I recommend careful preparation of a bill redistricting the State for legislative purposes, effective, of course, at the next general election.

By direct vote of the people in the general election, the salaries of the Governor, the Attorney General, the Comptroller of Public Accounts, the Treasurer and the Commissioner of the General Land Office were fixed at certain definite sums, representing increases over the prior constitutional salaries. No appropriation has been made to cover these salaries. All have gone into effect with the exception of the Governor's salary, effective the 3rd Tuesday in January, 1937. These officers, are, however, entitled to a deficiency certificate for such salaries until the appropriations are made. Since this is true, and they are already in effect, this matter is submitted to you as emergency legislation for immediate consideration.

D.

Salaries of Certain Constitutional Officers.

By direct vote of the people in the general election, the salaries of the Governor, the Attorney General, the Comptroller of Public Accounts, the Treasurer and the Commissioner of the General Land Office were fixed at certain definite sums, representing increases over the prior constitutional salaries. No appropriation has been made to cover these salaries. All have gone into effect with the exception of the Governor's salary, effective the 3rd Tuesday in January, 1937. These officers, are, however, entitled to a deficiency certificate for such salaries until the appropriations are made. Since this is true, and they are already in effect, this matter is submitted to you as emergency legislation for immediate consideration.

E.

Teachers Retirement.

At the last general election the people likewise authorized the establishment of a teachers retirement system under certain conditions, including contribution by the state to such retirement fund. This legislation should be carefully dealt with and should not be made effective until this Legislature provides sufficient revenues to pay the State's contribution to the fund.

F.

Temporary Confinement of Mentally Ill Persons Without Jury Trial.

At the special election of 1935 the people authorized the Legislature to provide for temporary confinement for observation and treatment of mentally ill persons, not charged with a criminal offense, for a period not to exceed 90 days, by order of the county court, without the necessity of a trial by jury. This legislation likewise should be carefully scrutinized and adequate safe guards made to prevent incarceration of any person, even temporarily, without his or her consent.

G.

Workmens' Compensation Insurance for State Employees.

At the last general election the people also authorized the Legislature to provide for workmens' compensation for state employees.

There is no denying the wisdom and necessity for adequate protection of various classes of our state employees. A number of employees of the State Highway Department, for instance, and of the State Highway Patrol, have been killed or maimed and injured for life without any hope of compensation from any source. We should proceed carefully in this regard, however, and before a such legislation becomes effective sufficient funds should be provided to take care of the cost.

It is quite probable that after various proposed bills have been submitted to me for study I shall have further recommendations to make with reference to each of the foregoing constitutional amendments.

5.

Child Labor Amendment.

While there were many features of the National Recovery Act on which some of us did not agree, there is no denying that it helped to bring recovery to the nation at large and to Texas as well. One of these provisions was that by which, under the Codes, employers agreed and bound themselves to do away with child labor. There is no denying that this one feature of the NRA was helpful to the physical and mental well-being of the nation's children; and that it contributed its part to the return of prosperity by eliminating sweat shop conditions and the unfair competition resulting from the activities of those engaging this character of labor in industrial centers.

The President has clearly pointed out that since the NRA was stricken down by the Supreme Court these sweat shop conditions and the exploitation of children have returned. They should be permanently eliminated.

I yield to no one my allegiance to the doctrine of the right of the states to control their own problems wherever possible. This is one, how-

ever, which our experience has already demonstrated the state is unable adequately to deal with. Industries in states enacting child labor laws are at a distinct disadvantage with other states which refuse to do so. Our Texas problem is not so acute in this regard as it is in the industrial centers of the North and East. Our prosperity, however, depends to a large extent upon their well being. I think we owe it to the nation at large to ratify this amendment. I hope the Legislature of Texas will do this promptly.

6.

Estimates of Money Required to be Raised by Taxation.

The Constitution requires the Governor at the commencement of each regular session to present estimates of the moneys required to be raised by taxation for all purposes. This is indeed a difficult task, and I shall undertake it to the best of my ability.

At the outset I regret to inform you that we are going to need considerable additional revenues; and that it will be necessary to raise this money by taxation.

I preface my estimates with this statement in view of the fact that after I shall have made my recommendations, some will no doubt point out a conflicting statement made last summer that we would not need new taxes for the ordinary purposes of government. This statement was based upon my honest judgment at the time and figures furnished me by the State Tax Commissioner. Indeed, I then believed that we would be able to wipe out the deficit in our general fund without any additional revenues. At the same time, however, I frankly stated that we would have to have additional revenues for old age assistance, and other features of the National Social Security Act—the extraordinary purposes of government.

Although it is somewhat embarrassing, I want you to know that I was honestly mistaken in my statement as to not needing revenues for the ordinary purposes of government. Conditions have changed since that time. Collections have not materialized as we anticipated; and

as you shall presently observe, we are going to have to have substantial sums of money for the ordinary as well as extraordinary purposes of government.

My embarrassment in this regard is somewhat relieved by reflecting upon the fact that all of us sometimes find we have made an honest mistake of judgment; and I have been somewhat consoled by Emerson's essay on "Consistency." He says:

"Consistency is the bugbear that frightens little minds A foolish consistency is the hobgoblin of little minds borne by little statesmen, little philosophers and divines."

I, therefore, concluded that I would prefer to be frank and right, than to be consistent.

We need additional revenue for two purposes:

First: The ordinary purposes of government to which we have been generally accustomed in the past.

Second: The extraordinary purposes of government which arise from new obligations we have taken upon ourselves as a result of the adoption of a number of far-reaching constitutional amendments, including direct relief, old age assistance, further benefits under the National Social Security Act (aid to the blind, etc.), workmen's compensation insurance for State employees and contribution to the teachers retirement fund.

I shall first present to you my estimate of our requirements for extraordinary purposes of government:

A.

Old Age Assistance.

According to a report made to me by the State Auditor, State Tax Commissioner and the Auditor for the old age assistance department, if the present old age assistance law is not changed, a minimum of ten million dollars will be required annually to meet the state's portion of this obligation. The same authorities estimate that the total receipts from taxes already levied for the support of this fund will amount to only \$8,400,000.00 annually, which will leave a deficit of \$1,600,000.00 each year for the ensuing biennium.

Monthly payments average \$15.50 per applicant.

The present old age assistance law went into effect November 1, 1936. At that time sufficient funds were not on hand to meet these obligations before the new taxes became effective. The Legislature, therefore, passed a law authorizing the issuance of interest bearing warrants which has enabled the Board of Control to match the Federal Government and make these payments in cash.

According to the State Auditor, the State Tax Commissioner and the Auditor for the old age assistance department of the Board of Control, we immediately need \$1,300,000.00 additional for the balance of the present fiscal year ending August 31, 1937. This will, of course, take care of the interest bearing certificates which were issued by the commission.

Thus, I estimate that for the purpose of paying old age assistance under the terms of the present law we need:

- a. For the balance of the fiscal year ending August 31, 1937 ----- \$1,300,000.00
- b. For the fiscal year ending August 31, 1938 ----- \$1,600,000.00
- c. For the fiscal year ending August 31, 1939 ----- \$1,600,000.00

After providing the additional \$1,300,000.00 for the remainder of the present fiscal year, we will need, therefore, an annual additional sum of \$1,600,000.00 for old age assistance.

B.

Additional Features of the National Social Security Act.

As stated at the outset of this message, the State Tax Commissioner estimates, upon data and statistics furnished by the Federal Government, that we will require annually a minimum of \$4,324,000.00 to put into effect the additional features of the Social Security Act, such as aid to the blind, aid to dependent and neglected children and child welfare.

Ordinary Purposes of Government.

A.

Deficit in General Revenue Fund.

At the present time revenues accruing to the general fund do not equal expenditures from that fund. The excess of expenditures from this fund over its receipts will average \$2,500,000.00 annually on the basis of present appropriations without increases.

The State Auditor estimates that the total deficit in the general revenue fund at the end of the present fiscal year ending August 31, 1937, will be \$14,874,157.00. Increase in this deficit is due to a number of causes:

a. The expenditure of \$3,000,000.00 for the Texas Centennial, which has, of course, more than repaid itself in increased gasoline taxes and general benefits to the state, but none of which goes back into the general revenue from which it was taken.

b. A total increase of \$4,000,000.00 in appropriations made by the 44th Legislature for rural aid.

c. Under the preceding administration twenty million dollars in relief bonds were voted and issued, but no taxes were levied to retire this debt. On the contrary they were made a first lien on revenues which otherwise would have gone into general revenue. Principal and interest payments on these bonds now total approximately \$2,800,000.00 annually.

d. Under the preceding administration taxes were remitted to various counties in the state; an instance being the Brazos Valley Conservation project remitting taxes in 10 counties.

An erroneous impression prevails among the people that increased cost of government is for salaries in the executive and judicial departments of the government; and that this is responsible for the increase in the deficit. This is incorrect; for as pointed out above, the deficit increase is due to the Centennial appropriation, increased appropriation for rural aid, payment of principal and interest on relief bonds, remission of taxes to counties and homestead exemptions, taxes on which formerly went to general revenue.

Many people, in making suggestions for balancing the budget, suggest that we economize by cutting salaries. The general revenue fund is, of course, in sadder condition than any other fund. Let us analyze the purposes and percentage of expenditures from this fund during the past fiscal year:

To pay principal and interest on relief bonds	11.30 %
Legislative expense (2 special sessions)	1.53 %
Judicial or court expense	9.37 %
Executive and administrative departments (Including Executive Department, Attorney General, Board of Control, Comptrollers, Land Office, State Library, Secretary of State, State Auditor, State Treasurer, Commission for the Blind, State Tax Board and Texas Relief Commission)	6.08 %
Military and law enforcement	1.69 %
Regulation of business & industry	3.01 %
Health and Sanitation	.97 %
Development and conservation of natural resources	6.60 %
Eleemosynary institutions	31.00 %
Educational (Which includes Department of Education, rural aid and all State institutions of higher learning)	48.03 %
Parks and monuments	.19 %
State debt	.16 %
Miscellaneous (Which includes taxes on University land, payment of claims against the State and Centennial appropriation)	14.38 %

Thus it will be seen that if any substantial economies are to be effected in general revenue, it would have to be out of those departments showing the greatest percentage and total of expenditures. For instance, the educational department, including rural aid and all institutions of higher learning, expended over ten million dollars the past fiscal year.

I am at a loss as to how any substantial savings could be effected in these departments.

The next high expenditure is approximately six and one half million dollars for eleemosynary institutions. Already our insane asylums are overcrowded with patients but undermanned with personnel. Many patients are awaiting entrance, and we have been unable to keep some of our most efficient psychiatrists and physicians because of the low salaries paid. Instead of recommending a decrease in this appropriation, I join with the Board of Control in recommending a substantial increase for the creation of new units to take care of unfortunate insane now incarcerated in jails or in private homes; and to better care for those already confined in our asylums.

This deficit in the general fund, however, must be liquidated. It can only be done in one of three ways.

a. Expenditures must be curtailed to make income equal outgo and additional cuts made so as to reduce the existing deficit substantially each year; or

b. Taxes can be levied so as to make income into this fund equal outgo and provide a sufficient amount to substantially reduce this deficit each year; or

c. Unless the budget is balanced under one or the other, or both, of the foregoing methods, then appropriations for our educational institutions should not be made out of general revenue but a separate fund should be set up and adequately financed by taxation.

With reference to suggestion "a," above, that is, drastic reductions in the appropriations, I have pointed out the practical difficulties confronting us and; frankly, I see no way of making any substantial reductions in the appropriations for these necessary functions of government, to-wit, our courts, our educational institutions and the care of our insane people and other public wards.

As to suggestion "b," levying taxes to meet these problems, I shall conclude this message with appropriate recommendations.

In connection with the possible transfer of appropriations for the educational department and our institutions of higher learning from

general revenue, I desire to remind you that already one of our greatest difficulties has been the setting up of a number of separate funds. It is indeed a peculiar and, in many respects, an unfair thing that some state employees are paid out of special funds and secure 100 cents on the dollar while other employees and officers are compelled to discount their warrants each month. There is this advantage, however, to the setting aside of these special funds:

Generally those who advocate special funds help the Legislature to raise revenue to place in such funds. The best way to stop an increase in the deficit in the general revenue fund will be to stop making substantial additional appropriations out of same until the revenue is in sight to take care of such appropriations. For instance, during the Forty-fourth Legislature the friends of education secured an increase of two million dollars per year for rural aid; yet, no effort was made to assist the Legislature in raising the revenue necessary to pay off this increased appropriation.

I want it definitely understood I believe in liberal appropriations for our educational institutions; but I think the friends of education owe it to themselves, to the Legislature and the people to help us raise revenue sufficient to support their increased appropriations; and, certainly for contributions to the teacher's retirement fund.

At the same time that the increase of two million dollars per year for rural aid was made out of general revenue, the available school fund showed a substantial surplus; because of this surplus, the per capita apportionment was raised from \$17.50 to \$19.00 and the ad valorem tax for school purposes reduced from 35c to 20c. This surplus had been built up by allocating to the available school fund out of various tax levies, such as cigarette tax, oil and sulphur taxes, a higher percentage of such taxes than the 1/4th automatically set aside to the available school fund by the Constitution. If we continue to make appropriations out of general revenue which results in improving the condition of the available school fund, then in justice to general revenue the present excess of taxes going into the available

school fund, above the constitutional 1/4th should be released to general revenue.

It is a simple fact that friends of education in Texas constitute one of our most powerful elements of public opinion. They can be made into a valuable ally of this Legislature in the matter of helping to pass revenue measures, especially where the purpose of such tax levies is to help carry on the cause of education.

We cannot deny that it is our duty to balance the budget; to wipe out the increasing deficit in general revenue. The statement is often made, and either inspired or echoed by powerful interests seeking to escape the burdens of taxation, that a substantial deficit is a good thing; that it is a deterrent to liberal appropriations by the Legislature. This has not proved to be true. Two years ago I recommended that the budget be balanced; that the deficit in general revenue, which was less than that it is now, be wiped out. At that time the statement was made that a not too large deficit was a wholesome thing and would deter liberal expenditures; yet appropriations and expenditures were substantially increased, as I have pointed out in this message.

I say this not critically of the Forty-fourth Legislature, but to keep the record straight. During the Regular Session, appropriations were substantially increased, resulting in an increase in the deficit of more than five million dollars; and yet during that session, not a single tax measure of any consequence passed, although I recommended at that time a comprehensive tax program for equalizing our tax burdens and to balance the budget.

An estimate of needed revenues for the general fund must necessarily take into consideration the following:

a. The existing deficit which will be approximately fifteen million dollars at the end of the present fiscal year, August 31, 1937.

b. The sum of approximately \$2,500,000.00 necessary to make income equal expenditures from this fund.

c. Any increase in appropriations by this Legislature over appropriations for the past biennium.

d. Any new appropriations out

of general revenue which this Legislature may see fit to make.

In connection with item "c," above (increases in appropriations from general revenue over the appropriations for the past biennium):

The State Board of Control has completed its recommendations with reference to the judiciary, educational department and eleemosynary institutions. The Board recommends certain increases for these departments. They have not, as yet, completed recommendations for departmental appropriations, but I understand these also will recommend increases.

I am not unmindful of the fact that a number of our officers and employees are entitled to increases, especially the judges of our courts; I am unwilling, however, to join in recommending any increases in appropriations for these various departments over the past biennium (excepting, however, the recommendations of the board for additional facilities for our state eleemosynary institutions) until and unless this Legislature enacts a comprehensive forward looking tax program, which will assure ultimate liquidation of the present deficit and balancing of the budget.

With reference to item "d," above, (that is, additional appropriations out of general revenue for any new purpose): I cannot approve any such action unless the Legislature contemporaneously provides sufficient revenues to take care of such appropriations.

Since the Board of Control has not completed its departmental recommendations, I am, myself, unable to make definite recommendations as to such departments; but I understand the Board's recommendations will be available shortly. I am also unable, of course, to anticipate what this Legislature may do in the matter of increases, and I am therefore compelled to make my recommendations based on the appropriations for the past biennium.

I, therefore, recommend substantially the same appropriations from general revenue as for the past biennium; except that I join in the board's recommendation of an increase of approximately \$1,375,000.00 annually for our eleemosynary institutions. I recommend that the Legislature provide

by taxation new revenues of at least two and one-half million dollars to apply on the deficit; and that they provide an additional two and one-half million dollars annually to certainly assure that income into general revenue will equal expenditures from that fund. In other words, I estimate, if no greater appropriations are made from this fund than for the past biennium that a total of \$6,375,000.00 of new revenue annually is necessary to prevent an increase in the deficit and assure its ultimate liquidation. Any increase over these recommendations or any new appropriations from general revenue (if the Legislature see fit to make them) will have to be added to this estimate.

7.

Revenue and Taxation.

The most painful problem of government is taxation. It will prove to be the most difficult with which this Legislature will have to deal; the one upon which there is room for the greatest difference of opinion. In commenting upon this question and making recommendations, I am, of course, dedicated to the platform of the Democratic Party; and at the same time expressing my official opinion for whatever it may be worth to you.

The problem of fairly providing revenue for efficient operation of our state government is doubly difficult today because of the patchwork system handed down to us. It has largely resulted from the fact that the ad valorem system was originally the basis for practically all taxation. This system was inaugurated at a time when Texas was an agricultural state and land ownership was practically the sole source of wealth. As we progressed, meeting new problems and consequent new functions of government, makeshift tax levies have been made to meet all existing demands without any farsighted, comprehensive, definite plan. As a result the grossest irregularities and discriminations have sprung up. Farm and home ownership has become increasingly difficult. The increase in farm tenancy over the country, which has aroused the interest of the President, has likewise assumed alarming proportion in Texas. If we are to intelligently

and fairly deal with this eternal problem of government, we must start at the source and make certain changes in our fundamental law, the Constitution.

My views upon taxation remain the same as they were two years ago. They are set out in full in my message to the Legislature, February 25, 1935, found at page 520 of the House Journal and page 587 of the Senate Journal, Regular Session of the Forty-fourth Legislature. I shall not burden you by repeating them here, but respectfully urge each of you to review the recommendations made at that time.

The platform of the Democratic Party adopted last summer reads in part as follows:

"We urge legislation to ease the burden of taxation on homes, farms and ranches. To accomplish this necessary relief, we favor a reclassification of property for taxation, so as to bring on to the tax rolls the large percentage of wealth now escaping the ad valorem tax . . . the state tax board should be given authority to aid counties in equalizing the values of properties of oil companies, sulphur companies; utilities, insurance companies and other large businesses in order to increase revenues from that source."

To accomplish these ends it will be necessary to amend our Constitution.

The Constitution of Texas provides that "taxes shall be equal and uniform." This has been held to mean that all properties subject to the ad valorem tax must be taxed upon the same basis and at the same rate. It has resulted in a large portion of intangible and personal property not being taxed at all. Reliable surveys of estates under administration in a number of typical Texas counties discloses that approximately 45 % of property subject to taxation is not taxed at all.

This untaxed property is largely notes, bonds, mortgages, bank deposits, etc. Part of the trouble is due to deliberate evasion by the taxpayer; but a larger portion to the requirements of the Constitution, stating a fine theory of government, but actually working an impossible situation on some classes of property.

For instance, the owner of a note

for one thousand dollars drawing six per cent interest could hardly deny that it was actually worth its face value. If he rendered it for taxation, however, and it were taxed upon its face value at the same rate as other classes of property, by the time the owner of the note had paid state, county and local taxes, the interest would practically be absorbed.

Land or real estate is, of course, more difficult of concealment than any other class of property. It is, however, rarely rendered for its face value. It is small wonder, therefore, that the owners of notes, bonds, mortgages, etc., fail to render such property for taxation; and that local taxing authorities (upon whom the state at present is dependent to protect its interest) do not compel the assessment of this character of property at all.

A number of the more progressive states have adopted amendments to the Constitution permitting the Legislature to classify property for the purpose of taxation and to assess a lower and different rate for one character of property as against another. This enables the Legislature to place such a reasonable rate upon this character of property that there is no incentive to the taxpayer to secrete it; and yet it has resulted (and will result in this state, if the Constitution is amended) in placing upon the tax rolls millions of dollars worth of property, available for taxation purposes to state and municipal governments alike.

The 43rd Legislature submitted a constitutional amendment to authorize the Legislature to classify property. It encountered bitter opposition at the hands of owners of property escaping taxation. Various misrepresentations were made to accomplish its defeat when voted upon by the people. For instance, it was first whispered and then later notoriously circulated among our church people, and the homeowners of the state, that if adopted, this amendment might affect the exemption of church properties and the homestead. In my opinion, this propaganda resulted in the defeat of the amendment.

I earnestly recommend the early submission of a carefully drawn amendment (to be voted on this year) to permit classification. I sug-

gest that it be especially provided in the amendment itself that nothing therein shall in anywise affect the homestead, church, or other properties now exempt from taxation under the constitution. With this assuring guarantee many people, who were alarmed before because they feared it might interfere with existing exemption of homestead and church properties, will support the amendment. I am certain from the experience of other states that it will bring upon the tax rolls, at a reasonable rate, hundreds of millions of dollars worth of property now escaping any taxation whatever.

Under the present law and constitution acceptance of property renditions and assessment of property for taxation is entirely in the hands of local authorities in each county. The Commissioners' Court sits as a Board of Equalization and acts as completely for the state as for the county. When a valuation is placed at a certain figure by the Board of Equalization for county purposes it is equally binding on the state. This has resulted in the most unequal and unfair system of taxation conceivable.

Inequalities and injustices are clearly reflected by the Comptroller's report. They are very graphically pointed out in a book published last year by Honorable C. M. McFarland, representative in the Legislature from Wichita County.

Land and oil properties located in one county of equal or greater value than in other counties are taxed on a basis far below and unreasonably out of proportion to actual assessed value in other portions of the state. In too many counties in the state practically no personal property whatever is rendered or assessed for taxation for either state or county purposes. One county having, according to the census, far more cattle than another, will not tax this property at all; or will tax a small number upon a valuation of two dollars per head; while in another county having actually a far less number of cattle, a larger number will be taxed upon a valuation of ten to sixteen dollars per head.

In most counties of the state no ad valorem tax whatever is paid upon automobiles. In some a few are taxed upon a valuation as low as

ten dollars per car; in others upon a higher valuation. At the same time in a few counties they are taxed by city or other local sub-divisions of the government.

The argument may be advanced that already a fairly high tax is paid for the registration of motor vehicles. This may be ever so true; but what has been done and what can be done illustrates the injustice of our present supposedly "equal and uniform" system of taxation. This property is subject to taxation. It is actually taxed in some counties and by some sub-divisions of government while in other counties it escapes any taxation whatever. This is manifestly unfair to the taxpayer in counties where taxing authorities compel payment of the ad valorem tax on automobiles and then permit thousands of owners in other counties to escape without paying on their cars.

In some counties in the state there is no rendition of stocks of goods while in others the rendition is negligible; and at the same time in other counties doing a far smaller percentage of business, according to statistics, larger stocks of goods will be taxed upon a high valuation. Bear in mind that in those counties where these properties are taxed at all they are taxed for state as well as county purposes; and where they are not assessed, or where they are valued at an unreasonably low figure, the state loses; and the taxpayers over the state generally suffer.

If there is any defense or justice in this kind of system, I am unable to comprehend it.

There are, however, certain possible explanations:

First: Some counties have stepped out and engaged in highway construction and other projects, voting bonds which have to be retired by taxation. They are pressed for revenue and necessarily require the rendition of property for county taxation, which is entirely overlooked in other counties; but, when the local taxing authority accepts a rendition or places a value on this property for county purposes, it likewise does so for the state; and the state benefits thereby.

At the same time, however, when local taxing authorities in other counties fail to place property on the

tax rolls, the state government is utterly precluded. The state must take care of the county's public wards, it must provide old age assistance and relief, extend financial help to carry on local schools, must build highways and operate the government in the interest of every county in the state; yet it can have no voice as to the valuations placed on property for state taxation purposes.

Does not this constitute in actual effect the rankest discrimination and unfair treatment of the citizenship of the state as a whole?

Second: The state is left at the absolute mercy of local politics and must entirely depend, under our present constitutional provisions, upon the absolute integrity of local officers. True it may be urged that removal proceedings will lie against any county officer failing in his duty to the state. As a practical matter, however, such suits would have to be brought in the county of the officer's residence; and, as you and I well know, it is an utter impossibility for the state to accomplish removal in any community for favoritism shown to local taxpayers.

All of us believe in local self government so far as possible but this principle can be extended too far; and in this instance it has been so extended. I concede that if the valuation accepted by local authorities were made only for county purposes, it should not perhaps concern the state; but when these authorities act actually for the state, and presumably in the interest of the whole people, then the state should have some voice in the valuations fixed or accepted.

As illustrative of the fact that the state is at the absolute mercy of local authorities, and has suffered thereby, let me cite you to the following:

A survey now in progress, financed by the Federal Government, under the supervision of the State Tax Commissioner, has already uncovered 699,564 acres of land valued at \$7,690,733.00 which were not on the tax rolls at all. It also disclosed that in 206 counties in Texas there are 67,875 tracts of land upon which improvements had been made of the value of \$54,711,875.00 which are not rendered, assessed or taken into

consideration at all for taxation purposes.

Again, the tax survey has disclosed one instance of the rendition of a valuable tract of land in East Texas containing 15,000 acres for a total valuation of one dollar; (not one dollar per acre, but one dollar for the entire tract). This rendition was followed with an explanation that this sum of one dollar represented the interest of the citizen making the rendition. Through a careful study of the title records, it was disclosed that this citizen rendering property for one dollar owned the entire tract of 15,000 acres in fee simple, without a single dollar of indebtedness against it; and that no other person had any interest whatever in the tract. This disclosure and investigation resulted in a tax assessment being placed on this land and finally accepted by the taxpayer upon a valuation of \$168,000.00.

This is not an isolated instance. The State Tax Commissioner is preparing a report upon this survey which will be available to the Legislature. It will disclose other renditions, assessments and evasions equally shocking and astounding.

No more glaring example of disregard of the state's interest by local tax authorities can be found than the situation which until recently prevailed in Wharton County for a number of years. As you well know, the largest sulphur deposits in the world are to be found in this county. Some ten years ago the State remitted all ad valorem taxes from general revenue to Wharton County for twenty-five years, or until such time within that period as would be required to retire a certain bond issue voted for the purpose of removing obstructions from the Colorado River. Certainly it was to the interest of the state as a whole that this bond issue should be retired as rapidly as possible in order that these taxes might again come back into the State Treasury.

It is now a matter of court record that the valuation placed on these properties by the local commissioners' court was pitifully inadequate.

Notwithstanding the tremendous interest of the state in this matter, and the graciousness of the Legislature which had remitted these taxes

to the county for the purpose of assisting them in their local project, a majority of the commissioners' court refused to even give the Attorney General of Texas a hearing or an opportunity to present the evidence then available. Recently a new commissioners' court has been elected. They held hearings and raised the valuations on this property from approximately fifteen million dollars to thirty million dollars.

The sulphur company has refused to pay taxes on this increase and the county will be compelled to file suit. The taxes do not become delinquent until February 1st, and then under the present law the county cannot file suit until after July 1st. Under the law at present, the taxpayer, in order to prevent accrual of penalty and interest, is required to tender the payment of taxes upon the basis of the valuation for which he contends; but even when tendered, the tax assessor and collector cannot accept the taxes which are admitted to be due. Both the county and the state are thus deprived of the use of tax money about which there is no dispute whatever; and this will be held up pending the result of the suit, which will no doubt be long, drawn out litigation. The state's portion of the taxes which the sulphur company admits to be due (but which the tax assessor and collector cannot accept) will be \$94,482.42 for this year alone.

I recommend the passage of a bill requiring the payment of taxes on the listed and rendered value in order to prevent the accrual of penalty and interest, and authorizing the tax assessor and collector to receive this money. I am confident that other similar situations exist throughout the state and that the passage of this simple law will result in tremendous revenue to the state.

I recommend immediate submission of a constitutional amendment to be voted on this year, giving the State Tax Board the authority not only to assist local taxing authorities, but also the right of appeal to the courts for the placing of a fair valuation upon all property subject to taxation.

Of course, such an amendment should be carefully prepared, and I

would suggest that it have incorporated in it a provision authorizing the Legislature to require the owners of stocks of goods to render same upon a basis of the value of the average stock on hand throughout the taxable year. At present, the taxpayer is required to render such stock as he may have on hand on January 1st. It is a matter of common knowledge that the large chain stores, and possibly others in this state reduce their stocks to the minimum during the holidays and render this minimum stock as of January 1st; whereas they have done throughout the year a tremendously large amount of business, necessarily requiring a far greater stock of goods on hand, upon which no taxes are paid.

There is now and has been for years constant discussion as to why we have such unequal and unjust forms of taxation. I have tried to point out in this message the underlying causes and have made recommendations which I think should correct these abuses. The statement of the Supreme Court of the United States that "the power to tax is the power to destroy" has become a household expression. In view of what has happened and is now carried on in Texas, however, under the present system, it should be revised to read, "the power to discriminate, the power to evade taxes, is the power to destroy."

If the constitutional amendments I have suggested are submitted by this Legislature, I assure you I shall make a personal public campaign for their adoption. I want the people of this state to have the real facts; and when they get the facts I am confident they will adopt these amendments which will authorize the Legislature to really do something for them. It is small wonder that we hear complaint about taxes when only a portion of those who own property are paying taxes upon that property. Necessarily it increases the amount that must be paid by those who do pay. If we will collect on the 45% or 50% of property now escaping taxation, it will not only help meet our pressing financial problems, but will reduce the amount now being paid by those who have to pay.

8.

Natural Resource Tax.

The platform of the Democratic Party reads: "We favor a substantial increase in the tax on natural resources including oil, gas and sulphur."

During the last called session and subsequent to the adoption of the Democratic platform, the Forty-fourth Legislature made a small increase in the tax on natural resources. This was done in the closing days of the session when it was apparent that unless the amount of increase was accepted the session would be fruitless. As most of you know, that special session was called for the purpose of financing old age assistance. Notwithstanding the increase in natural resources taxes went into the general fund, yet other taxes were diverted from general revenue and placed in the old age assistance fund. I think it will not be denied that representatives of the natural resource industries before the Legislature were indeed happy to get off with such a slight increase.

Since that Session of the Legislature these industries have improved their condition. This is particularly true of the oil industry. They have already had a substantial increase in the price of their product and another increase is definitely pending. I suspect it may be even now held up in order to discourage any additional efforts at an increase in state taxation.

My friends of the Legislature, all of us want to be fair to these industries. The prosperity of our state depends to a large extent upon their welfare. There is no denying, however, that they are not contributing a full just share to the burdens of government.

With particular reference to the oil industry—not to single it out—but because it is necessary to discuss the problem frankly. For years now the Legislature of Texas has enacted practically every conservation statute and enforcement measure desired by this industry; not only to prevent waste but to stabilize the business, to make it profitable and prosperous. Largely the statutes passed have been designed to prevent physical waste of our natural resources. Yet

there can be no denying that the indirect result has been to stabilize the industry and insure to those engaged in it a generous return upon their investment.

I think that an industry that has asked and received such consideration at the hands of the law making body of this State and which no doubt will ask its help again, should not object to the demands of the party platform for a substantial increase in the tax on oil. The state government which has secured so much to them must be carried on. It is being called upon to assume additional burdens and responsibilities for purposes hitherto undreamed of. The principle of taxation upon a basis of ability to pay should certainly be extended to the oil, gas, sulphur and other natural resource industries.

It will be pointed out in opposition to this recommendation that although Oklahoma and Louisiana require a larger production tax than Texas, yet in those states the oil industry does not have the heavy burden of the ad valorem taxes which must be paid in Texas. I remind those who present this argument that Oklahoma and Louisiana have income taxes and Texas has levied none upon them.

9.

Increases in Franchise Tax Law.

The platform of the party favors a revision of all the franchise tax laws to increase revenue from that source and particularly "a reasonable franchise tax against the gross assets of oil and gas pipe line companies."

A franchise tax is levied for the privilege of corporate existence in the state. It is not a property tax but is levied upon the theory that unusual advantages, benefits and privileges are secured by corporate organization and operation.

Under our laws and decisions of the Supreme Court of the United States, a corporation enjoys and exercises almost every privilege given to the individual; and in many respects it has advantages over operation of a business by an individual. The liability of stockholders in a corporation is tremendously less than if they were operating as partners or as individuals. A person's life is

circumscribed by time; but with our lenient corporation laws, permitting the renewal of charters and permits to do business within the state, corporations can continue beyond the span of human life.

Bear in mind, therefore, that a franchise tax is paid for a special and unusual privilege, the right of a powerful group, operating as a fictitious person, to exist and do business within the State.

In my message to the Legislature two years ago I recommended specific amendments to the franchise tax laws; and particularly an amendment to the law levying a franchise tax of only 1/5th upon pipe line companies. I renew those recommendations; and in addition desire to give you the following information:

Under the present law the franchise tax is determined by computing the total issued capital stock plus the surplus, plus long term indebtedness; and charging against this total 60 cents for every thousand dollars for the first million dollars; and 30 cents for each thousand dollars for all over a million dollars. Please note that the taxes graduate downward, not upward, after the first million dollars. In my opinion, this is clearly discriminatory against the smaller and in favor of the larger corporations.

I recommend that this be corrected in such manner that the franchise tax system shall employ the principle of ability to pay. Under the present law a corporation with a million dollar capitalization earning a net profit of two hundred thousand dollars a year pays no more franchise tax for its privilege to do business in Texas than the corporation of similar capitalization losing that amount in a year's operation. This is unjust and inequitable.

I pointed out two years ago that utilities, railroads and oil pipe lines pay substantially less under the present law than an ordinary business corporation. Insurance companies and national banks are completely exempt from the present tax law. The utility corporation is not required to pay a tax on long term indebtedness (the chief item of capital), although all other classes of corporations are required to pay on this item.

As I pointed out two years ago, under the present law corporations which are required to pay an intangible assets tax, such as railroads and oil pipe lines, pay only 1/5th of the franchise tax paid by the ordinary business corporation. This reduction of 4/5ths is theoretically given to railroads and oil pipe line corporations upon the theory that they are paying an intangible assets tax. The intangible assets tax, however, is a property tax. It is not a privilege or new tax, but is simply a method of computing the amount to be paid upon intangible assets, which are property just as much as real estate or visible personal property.

The oil pipe line corporations have not even paid the intangible assets tax to the state. Practically all of them except the Stanolind are contesting its constitutionality at the present time in the courts. In any event, however, with them as with the railroads, the intangible assets tax is not a privilege tax. It is a property tax which they should pay just as others pay on visible property. I respectfully submit that there is no justification for a reduction in favor of the railroads, the utilities and oil pipe lines of the franchise tax in their behalf, when they are enjoying the unusual benefits of corporate life in Texas just as every other corporation does. They ought to pay franchise taxes upon the same basis.

In my message two years ago, I advised the Legislature that 20 pipe line companies reported to the Secretary of State a total net profit of seventy-eight million dollars, an average of 25% in a single year upon their investment; and that at the same time these 20 companies, altogether, paid the state the magnificent sum of \$10,030.79 in 1/5th of a franchise tax. Even if they paid all the 5/5ths, the total tax would only have been \$55,000.00.

The situation has not changed much in the meantime. According to reports made to the Interstate Commerce Commission, eight companies, all but one of them operating within the State of Texas, reported the highest net incomes. One, the Stanolind Pipe Line Company, reported the highest net income, \$8,800,676.00. This company paid

the State of Texas only \$95.77 for the privilege of operating in Texas during the year beginning May 1, 1936, and ending April 30, 1937. The Humble Pipe Line Company, Magnolia Pipe Line Company, the Sinclair-Prairie Pipe Line Company, the Shell Pipe Line and Texas Pipe Line Companies reported total profits in one year of \$41,010,822.00. The total franchise taxes paid to Texas by these corporations for the privilege of operating within our state for one year was \$5,647.99.

Yet, the representatives of these same companies appearing before this Legislature to protect their interests oppose an increase in the franchise tax law, and say we ought to have a general sales tax to make the average man "tax-conscious" and to make him appreciate his government. I think they ought to show appreciation to the government of the State which has probably contributed more to their prosperity than any other in the Union by agreeing to the levy of a fair franchise tax.

Each one of these pipe line companies is allied with other corporations, bearing practically the same name, controlled by the same holding company, engaged in the producing, refining and marketing of petroleum products. It is a known fact that the transportation of petroleum—the pipe line branch of the business—has for years earned stupendous profits and enabled the sister companies—all controlled by parent concerns—to carry on the other branches of the business, sometimes at a loss, supported by pipe line profits. This has constituted the unfairness of competition to every independent individual or company in the field; and such independent concern must sell, produce, refine and market petroleum products upon the same competitive basis as the integrated companies; and yet in effect pay to its competitor through the allied pipe line company a liberal charge for transporting oil through such lines.

You and I, every one of us, have pledged ourselves in our campaigns and in our oaths of office, to equal and uniform taxation. Untaxed millions of pipe line company profits constitute the most unequal taxation that can be found. I earnestly urge this Legislature to correct promptly these defects in our franchise tax

laws; and, at the same time, provide the state with needed revenue.

10.

Other Taxes.

The platform of our party likewise commits us to an increase in inheritance taxes and to a restoration of the tax on breweries and beer dealers; likewise to revision and strengthening of our present laws to prevent evasions and simplify collections of delinquent taxes. A number of bills covering these subjects will no doubt be promptly introduced.

Conclusion.

Members of the Forty-fifth Legislature, I ask your considerate cooperation with me in every part of this program you can conscientiously support. I pledge you like cooperation on my part. I have moved my office to the second floor with you so as to be available for conferences at any time. I have declined outside invitations during this session so as to be here to work with you.

To some it may appear that I have spoken rather frankly, I think this is necessary, however, if we are to understand one another. I recognize that I am subject to error in my calculations, in my judgment and in my opinions. I recognize that in practically every recommendation I have made there may be room for criticism and honest differences of opinion.

I do not expect any member of this Legislature to blindly sacrifice his own principles or honest judgment at any time. What I have said in this message, or what I may say hereafter, is in this spirit; and I accord every other public servant the same right. I shall at no time deal in personalities and I want only to be accorded the privilege of expressing myself at any time as freely as you would extend the same right to a member of the Legislature. Some of us may differ as to the means to be employed to effectuate the ends of government; but all of us can agree that we have a big task ahead, one which challenges every moment of our time, every faculty and patriotic impulse we can summon!

Our financial problems, as outlined in this message and as they may be accentuated by increased de-

mands in the new fields in which we have set our plows, are bigger than we suspected. They are not dismaying, however; they can be overcome! Even this financial picture has its brighter pages. Most of the departments of government operate on a cash basis. We are already taking care of our neediest, aged citizens. Increases of the deficit in the general fund caused by payments upon relief bonds, while increasing the deficit to that extent, have at the same time resulted in proportionately lowering the public debt.

Texas today stands among the highest in financial rating as a state. It has one of the lowest, if not the lowest, bonded indebtedness of any state in the Union, less than fifteen million dollars! And that a debt for money spent to feed hungry people!

By contrast with other states our state indebtedness, even with the deficit thrown in, is negligible. Arkansas and Louisiana, for instance, owe millions of dollars upon their state bonds; the former, a state not rich as we in natural resources and in opportunity, struggling under a bonded indebtedness of more than a hundred million dollars.

In recent months I have traveled in every state bordering on Texas. Everyone of them has what in effect amounts to a general sales tax; and practically all of them have income taxes as well. We would be dismayed had we levied all these taxes and more as has been done in Colorado, and then were confronted with the additional task of financing an old age pension of \$45.00 per month for every person over 60.

As you are well aware, it has been my privilege during this Centennial year to visit in a number of states; and from everyone of them I have returned thankful to the Almighty that I live in Texas and that the people have blessed me with The Governorship of the Lone Star State. The great Centennial of Texas Independence, in my judgment, has contributed more to the material development of our state than anything that has happened since the Battle of San Jacinto; but it has done more than advance the material well-being of Texas. It has stimulated and revived the Texas spirit; it has aroused in us grateful appreciation

of the virtues, the patriotism and the ideals of our forebears. We must keep that spirit alive; we must teach it and pass it on to our children as the greatest Texas heritage.

After all, we face no problems compared with those which fronted our forebears a hundred years ago. Our financial problems dealing with millions are puny compared with those of the bankrupt government that struggled on and laid the foundation for this future state. Where then both nature and superior forces of men seemed pitted against them, all the odds are now upon our side.

Texas is rich, rich in resources, richer in people, richest in its possibilities. If we will but take hold in the spirit of our traditions and keep constantly before us the star of patriotism, we can settle all our problems without substantial hurt to anyone. Building upon the foundation laid by our forebears, devoted to the constitution they created, like the children of Israel of old we can "go forward." We can better and make happier the state which is the ideal and envy of all others, the Texas it is our privilege to serve.

Sincerely and with all respect,
JAMES V. ALLRED,
Governor of Texas.

At the conclusion of the Governor's address, the Senate repaired to its chamber.

In the Senate.

The President called the Senate to order at 12:45 o'clock p. m.

Messages From the Governor.

The President announced that the following messages had been received from the Governor and directed that they be printed in the Journal and that those submitting nominations be referred to the Committee on Nominations of the Governor:

Executive Office,

Austin, Texas, Jan. 12, 1937.

To the Members of the Forty-fifth Legislature (In Regular Session):

Pursuant to Section 9, Article 4, of the Constitution of Texas which provides that the Governor shall, at the commencement of each session of the Legislature, account to the Legislature for public moneys received and paid out by him, I comply by herewith presenting a statement of all moneys received and disbursed by me from January 15, 1935, to this date:

No. 1—January 16, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		\$ 1,500,000.00
January 16, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		1,500,000.00
No. 2—February 5, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		779,046.00
February 6, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		779,046.00
No. 3—February 5, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		2,045,164.00
February 6, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		2,045,164.00
No. 4—February 9, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		880,331.00
February 14, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		880,331.00
No. 5—February 23, 1935—Received from the United States Federal Emergency Relief Administration through the		

	Treasurer of the United States for credit to the Governor of Texas	1,000,000.00
	February 23, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	1,000,000.00
No. 6—	February 23, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	500,000.00
	February 25, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	500,000.00
No. 7—	March 5, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	2,870,386.00
	March 5, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	2,870,386.00
No. 8—	March 7, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	1,000,000.00
	March 7, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	1,000,000.00
No. 9—	March 16, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	750,000.00
	March 16, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	750,000.00
No. 10—	March 18, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	1,000,000.00
	March 18, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	1,000,000.00
No. 11—	March 29, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	2,000,000.00
	March 29, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	2,000,000.00
No. 12—	April 16, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	4,947,117.00
	April 16, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	4,947,117.00
No. 13—	May 1, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	250,000.00
	May 2, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	250,000.00
No. 14—	May 7, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	2,927,295.00
	May 16, 1935—Remitted to the Relief Commission Division, Board of Control of Texas	2,927,295.00
No. 15—	May 13, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas	2,500,000.00

	May 16, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	2,500,000.00
No. 16—	May 17, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	225,000.00
	May 17, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	225,000.00
No. 17—	June 4, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	1,717,300.00
	June 4, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	1,717,300.00
No. 18—	June 14, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	1,000,000.00
	June 14, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	1,000,000.00
No. 19—	June 19, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	500,000.00
	June 20, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	500,000.00
No. 20—	June 29, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	500,000.00
	July 1, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	500,000.00
No. 21—	July 1, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	3,250,000.00
	July 1, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	3,250,000.00
No. 22—	July 5, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	268,945.00
	July 6, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	268,945.00
No. 23—	July 18, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	1,000,000.00
	July 18, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	1,000,000.00
No. 24—	August 7, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	1,231,415.00
	August 7, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	1,231,415.00
No. 25—	August 14, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas.....	1,000,000.00
	August 14, 1935—Remitted to the Relief Commission Division, Board of Control of Texas.....	1,000,000.00
No. 26—	August 20, 1935—Received from the United States	

Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		250,000.00
August 20, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		250,000.00
No. 27—September 7, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		881,719.00
September 9, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		881,719.00
No. 28—October 4, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		1,099,225.00
October 5, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		1,099,225.00
No. 29—October 8, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		65,000.00
October 8, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		65,000.00
No. 30—November 8, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		647,500.00
November 8, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		647,500.00
No. 31—November 29, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		802,000.00
November 29, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		802,000.00
No. 32—December 7, 1935—Received from the United States Federal Emergency Relief Administration through the Treasurer of the United States for credit to the Governor of Texas		1,464,876.00
December 9, 1935—Remitted to the Relief Commission Division, Board of Control of Texas		1,464,876.00
No. 33—December 21, 1936—Received from the Trust Department of the Trust Company of Georgia, Atlanta, Georgia, payable to the order of the State of Texas, The State Treasurer of the State of Texas and Governor James V. Allred as a bequest under Item Eight of the Will of Helen Gray, said Will having been filed in the Probate Court of the City of Pawtucket, Georgia		3,000.00
December 21, 1936—Remitted to Hon. Charley Lockhart, State Treasurer of the State of Texas		3,000.00

There now remain no funds in my hands as Governor.

Respectfully submitted,

JAMES V. ALLRED,

Governor of Texas.

Executive Office.

Austin, Texas, Jan. 12, 1937.

To the Senate of the Forty-fifth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To be State Auditor and Efficiency Expert:

Tom C. King, of Dallas, Dallas County, for the unexpired term of Neal Sheffield, resigned.

To be a Member of the Lower Colorado River Authority:

T. H. Davis, of Austin, Travis County, for reappointment, term being for six years beginning January 1, 1937.

To be Members of the State Board of Dental Examiners:

Dr. J. D. Ellington, of Nacogdoches, Nacogdoches County, (reappointment), term being for six years beginning June 10, 1937.

Dr. Jack Younger, of Amarillo, Potter County, for a term of six years beginning June 10, 1937.

To be District Attorney of the 30th Judicial District of Texas:

Howard Martin, of Wichita Falls, Wichita County.

To be State Highway Commissioner:

Robert Lee Bobbitt, of San Antonio, Bexar County, for the six-year term beginning February 15, 1937, succeeding D. K. Martin, and to be chairman for the ensuing two years.

To be State Fire Insurance Commissioner:

Marvin Hall, of Brownsville, Cameron County, for the remainder of the unexpired term of Raymond Mauk, resigned, and for the full six-year term beginning February 10, 1937.

To be Associate Justice of the Court of Civil Appeals of the 4th District at San Antonio:

C. S. Slatton, of San Antonio, Bexar County, to succeed Robert Lee Bobbitt, resigned, effective February 15, 1937.

To be Members of the State Board of Medical Examiners (effective April 13, 1937):

Dr. N. D. Buie, of Marlin, Falls County—reappointment (six-year term).

Dr. P. R. Russell, of Fort Worth, Tarrant County—reappointment.

Dr. J. T. Lawson, of Bowie, Mon-

tague County, to succeed Dr. J. Allen Kyle, for full 6-year term.

Dr. O. B. Kiel, of Wichita Falls, Wichita County, at present a member of the board appointed by me two years ago to serve a short term which expires in 1939, is appointed to serve a full six-year term to succeed Dr. T. J. Crow of Dallas.

Dr. T. J. Crow, of Dallas, Dallas County, appointed for the unexpired 2-year term succeeding Dr. O. B. Kiel.

To Be a Member of the Board of Pardons and Paroles:

J. B. Keith, of Stephenville (reappointment under new constitutional amendment, effective February 1, 1937).

To Be a Member of the Pink Boll Worm Commission:

Dixie Kilgore, of Lamesa, Dawson County, appointed as the commission member from the infested area upon the recommendation of Judge Gordon McGuire, district judge of the 106th Judicial District, under the provisions of Title 4, Vol. 1, Chapter 3, of the Revised Civil Statutes of Texas, 1925.

To Be Chairman of the State Racing Commission:

Dolph Briscoe, of Uvalde County, for a term of two years contemporaneously with the beginning and expiration of the office of the Commissioner of Agriculture as provided by statute.

To Be Members of the Board of Regents for the Texas State College for Women at Denton (C.I.A.):

Kester W. Denman, of Lufkin, Angelina County—reappointment (term of 2 years).

Holford Russell, of Denton, Denton County, for a term of two years beginning with convening of Legislature, 1937, to succeed R. H. Hoffman, Jr.

Mrs. Virginia Hooper, of Austin, Travis County, to succeed Mrs. M. H. Hagerman, of Ranger.

To Be Members of the Board of Regents of the University of Texas:

E. J. Blackert, of Victoria, Victoria County, for the balance of the present term of J. T. Scott, resigned, and for the ensuing full six-year term.

H. H. Weinert, of Seguin, Guadalupe County, reappointment for a full six-year term.

Leslie Waggener, of Dallas, Dallas County, reappointment, for a full six-year term.

To Be Secretary of State:
Edward Clark, of Austin, Travis County, for a two-year term beginning January 19, 1937.

To Be State Tax Commissioner:
Albert K. Daniel, of Crockett, Houston County, for the remainder of the unexpired term of Marvin Hall, resigned, who was appointed to succeed R. B. Anderson, resigned, in November, 1936, and for the full two-year term beginning January 22, 1937.

To Be Members of the State Unemployment Compensation Commission:

R. B. Anderson, of Cleburne, Johnson County (Chairman).

Wallace Reilly, of Austin, Travis County (to represent labor).

C. R. Miller, of Austin, Travis County (to represent employers).

To Be a Member of the State Board of Veterinary Medical Examiners:

A. B. Rich, of Austin, Travis County, to succeed Dr. Fred A. Murray, deceased.

Respectfully submitted,
JAMES V. ALLRED,
Governor of Texas.

Executive Office,
Austin, Texas, Jan. 13, 1937.
To the Senate of the Forty-fifth Legislature (In Regular Session):

I ask the advice, consent and confirmation of the Senate to the following appointment:

To Be a Notary Public in and for Chambers County:

Ira A. Hankamer, Hankamer, Texas.

Respectfully submitted,
JAMES V. ALLRED,
Governor of Texas.

Adjournment.

On motion of Senator Rawlings, the Senate, at 12:50 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

THIRD DAY.

(Thursday, January 14, 1937.)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

Aikin. Brownlee.
Beck. Collie.

Cotten.	Pace.
Davis.	Rawlings.
Head.	Redditt.
Hill.	Roberts.
Holbrook.	Shivers.
Isbell.	Sulak.
Lemens.	Van Zandt.
Moore.	Weinert.
Neal.	Westerfeld.
Nelson.	Winfield.
Newton.	Woodruff.
Oneal.	

The following Senators were absent and excused:

Burns.	Spears.
Small.	Stone.

A quorum was announced present.

The invocation was offered by the Chaplain.

The reading of the Journal of the proceedings of yesterday was dispensed with, on motion of Senator Aikin.

Leaves of Absence Granted.

On motion of Senator Head, the following leaves of absence were granted:

Senator Burns, for today, on account of important business.

Senator Small, for today, on account of important business.

Senator Spears, for today, on account of important business.

On motion of Senator Collie, Senator Stone was granted leave of absence for today on account of illness.

Senate Bills on First Reading.

The following Senate bills were introduced, read severally first time, and referred by the President to appropriate committees, as follows:

By Senator Davis:

S. B. No. 37, A bill to be entitled "An Act providing that it shall be unlawful to kill, take or possess any of the game birds, game animals, fur-bearing animals or fish of this State, except in compliance with regulations promulgated by the Game, Fish and Oyster Commission; providing that the Game, Fish and Oyster Commission shall make adequate investigations to determine from time to time conditions affecting the game birds, game animals, fur-bearing animals or fish of this State; providing the facts that shall be determined from such investigations and